

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11072 of 2014

Arising Out of Misc Case No. -74 Year- 2009 District- Gaya

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Pawan Kumar Singh, S/o Late Triveni Singh, R/o Village-Bhewar, Sikaria
(Musepur), P.S.-Karauna, District-Jehanabad.

.... Petitioner/s

Versus

1. State of Bihar
2. Babita Devi, D/o Ramnandan Singh, presently residing at village-Dubhal, P.S.
Magadh Medical College, Gaya, District-Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Priyadarshi
For the Opposite Party/s	:	Mr. Punita Kumar Singh
		Mr. Rajnikant Singh
For the State	:	Mr. Ganesh Pd. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-07-2017

1. The petitioner seeks quashing of the order dated 01.05.2013 passed by the Principal Judge, Family Court, Gaya in Misc. Case no. 74 of 2009 whereby and whereunder the petitioner has been directed to pay Rs. 4500/- per month as interim maintenance to the O.P. no. 2 from the date of order.
2. Heard learned counsels for the petitioner, O.P. no. 2 and APP for the State.
3. The O.P. no. 2 filed a Misc. case under Section 125 of the Cr.P.C. praying therein to direct the petitioner to pay money for her maintenance as well as her three children. The O.P. no. 2 filed an application on 20.07.2012 for interim maintenance. The petitioner



(husband) filed a rejoinder on 14.02.2013 which after hearing was allowed on 01.05.2013 and the petitioner was directed to pay Rs. 4,500/- per month as interim maintenance of the wife and her three children.

4. It has been submitted that the father of the petitioner was constable and after his death, the petitioner being elder son was appointed on compassionate ground. The petitioner, whatever, receives from the salary uses to spend for maintaining his family members consisting un-married sister, younger brother and old ailing mother. The petitioner is not in a position to pay such amount as interim maintenance. However, he is ready to keep his wife at his house with full honour and dignity. The interim maintenance granted in favour of wife is against the materials on record and so the same is fit to be quashed. The learned counsel for the O.P. no. 2 on the other hand submits that the petitioner is a government employee getting salary more than Rs.18,000/- per month. The petitioner has suppressed the actual income. The order granting interim maintenance to the tune of Rs. 4500/- per month does not require any interference rather it requires enhancement.

5. On perusal of pleading of both the parties which has been annexed to the application as also the impugned order, I find that the petitioner, admittedly, is a government servant. It is also not in



dispute that the O.P. no. 2 is his legally married wife and from the said wedlock he has got three children. The O.P. no. 2 is residing at the place of her father along with her three children. It is not in dispute that she has no source of income. The court below allowed interim maintenance to the tune of Rs. 4500/- for the maintenance of four persons. In the present economic scenario it cannot be said to be exaggerated in view of the fact that the petitioner is a government employee getting salary more than Rs. 18,000/-.

6. In the facts and circumstances of the case, I do not find any merit in the present application requiring any interference in the impugned order. This Cr. Misc. application is, accordingly, dismissed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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